IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

WP(C).No. 23907 of 2007(U)

AGAINST THE ORDER IN IA 1409/2007 IN AS.51/2003 of ADDL.DISTRICT COURT, KOZHIKODE

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PETITIONER:

M/S. KERALA FOOTWEAR PRODUCTS (PREMIER CHAPPALS), 13/578 A,CALICUT TIMES COMPLEX KAMMATH LANE, KOZHIKODE-2, REP. BY ITS MANAGING PARTNER.

BY ADV. SRI.V.R.KESAVA KAIMAL
SRI.N.M.MADHU
SMT.C.S.RAJANI

RESPONDENTS:

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1. **N.P.C. ABOOBACKER, S/O. MOIDU, MADHURAMBALATHIL HOUSE, KOVOOR, MEDICAL COLLEGE PO, KOZHIKODE-8.**

2. **THE SECRETARY, CALICUT CORPORATION, NAGARAM AMSOM, DESOM, KOZHIKODE TALUK.**

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

WP(C)No.23907 OF 2007 U

Dated this the 6th August, 2007.

JUDGMENT

This writ petition is filed to set aside the order passed by the I Additional District Judge, Kozhikode in I.A.1409/07 in A.S.51/03. It was an application for reception of documents under Order XLI Rule 27 CPC. It is the case of the writ petitioner that the two documents sought to be produced are very material documents for a proper appreciation and disposal of the matter. The learned counsel would contend that the second document dated 11.6.2007 would clinch the issue. The court below on the ground that it was not a case where the documents shall not be produced in spite of due diligence, refused to entertain the application for reception of documents. Under Order XLI Rule 27(b) the court can require a document to be produced or the court can entertain it for a substantial cause. Most probably the consideration under Order XLI Rule 27(b) will arise only when the appeal is being heard and the facts are pierced into the mind of the court and at that stage the court may consider about the applicability of Order XLI Rule 27(b) as well. Therefore, in order not to shut out the scope of this reception of document at all I set aside the order passed now and direct

the court to consider it along with the appeal and if the court finds that it is necessary for a substantial cause to have the document or it is necessary for a proper determination of the subject matter in issue may look into and receive that document after hearing the other side as well. With these observations writ petition is disposed of.

M.N.KRISHNAN
Judge

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